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JAIME MEDINA HERNANDEZ

IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA

THE UNITED STATES OF AMERICA,
Plaintiff,
vs.
JAIME MEDINA HERNANDEZ,
Defendant.

Case #: 21-CR-325-YGR

**DEFENDANT MEDINA'S
SENTENCING
MEMORANDUM**

COVER PAGE

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1 **I. INTRODUCTION AND DEFENSE RECOMMENDATION**

2 Defendant Jaime Medina Hernandez (“Mr. Medina”) has admitted
3 culpability in a cocaine conspiracy to distribute and possession with intent to
4 sell, during August and September 2019. Mr. Medina was under the
5 influence of cocaine in September 2021, when he was arrested. He has no
6 prior exposure to the criminal justice system whatsoever.

7 Since his arrest, Pretrial Services has verified that Mr. Medina has
8 stayed drug-free. He is employed and supports his young family through
9 construction work.

10 Mr. Medina recommends the Court impose a period of probation, and
11 an additional 180-days of confinement to be served at a Residential Re-entry
12 Center (“RRC”). This would be a variance, below the Guideline level,
13 justifiable by the factors listed in 18 U.S.C. § 33553 (a).

14 **II. THE CHARGES AND RELEVANT CRIMINAL CONDUCT**

15 Mr. Medina turned 25 during September of 2019. He stands convicted
16 of being in conspiracy to posses and purchase cocaine. His codefendant was
17 arrested on September 10, 2019, and was found to be in possession of 413.1
18 grams of cocaine. Mr. Medina was not arrested until September 2021,
19 shortly after a warrant was issued. Mr. Medina had cocaine in his system
20 when he was arrested two years after this offense.

22 Thereafter, Mr. Medina was supervised by Pretrial Services while on
23 release. All drug tests indicated Mr. Medina stopped using drugs after his
24 arrest. Mr. Medina, before and after his arrest, maintained employment in
25 construction despite losing his job upon his arrest. His employment has been
26 verified. He has never missed a court appearance. He has had no contact
27 with law enforcement, before his arrest or since his arrest. He has in all
28 ways complied with the terms of his supervised release, and in that way, has

1 shown the Court that he takes this matter seriously.
2

3 **III. THE PLEA AGREEMENT**

4 The parties have reached no agreement about the sentence to be
5 imposed for Mr. Medina. The government has agreed to recommend a
6 sentence within the Guideline range, and Mr. Medina is free to request a
7 downward variance.

8 It appears from the codefendant's sentencing memorandum, that the
9 government had extended a probation offer to his codefendant. Doc. 54 at 2.
10

11 **III. THE GUIDELINE CALCULATIONS**

12 Mr. Medina's total offense level is 17.

13 His offense level was a 19, as indicated in the PSR at 8, but he has met
14 all requirements for safety valve relief under USSG § 5C1.2 and §
15 2D1.1(b)(18), and so his Total Offense Level should be reduced from 19 to 17.
16 PSR at 8.

17 Mr. Medina has no criminal history and therefore has a Criminal
18 History Level of I.

19 His Guideline range is 24 to 30 months.

20 Mr. Medina has served one-day of imprisonment following his arrest in
21 2021. PSR at 1.

22 This Court is requested to take note that the Legislature has
23 recognized that the individual with no criminal history is different from an
24 individual with one criminal history point. Starting in November, 2023, a
25 person in Mr. Medina's shoes would get an additional 2-point deduction, for
26 having being a 0-point offender. *See* 4C.1.1 [effective 11/1/2023]. If Mr.
27 Medina were given a sentence just one month later, he would be considered
28 to have a Total Offense Level of 15. His Guideline Range would then be 18-

1 24 months.

2 A sentence within the Guideline range here would be more severe than
3 necessary. Reasons are discussed in the next section of this memo, where
4 factors relevant to a below-Guideline level variance are discussed.

5 Additionally, any imprisonment is likely to result in designation to a private
6 facility where undocumented non-citizens are housed. These facilities do not
7 have education and programing available to inmates as do prisons run by the
8 Bureau of Prisons. Rehabilitation, job training, and drug treatment are not
9 provided in the private prisons as they are in BOP facilities.¹ Confinement
10 time is both more restrictive and also, less valuable with respect to helping to
11 direct inmates to improvements in their lives after prison.

12

13 **IV. 18 U.S.C. 3553 (a) FACTORS: PROBATION WITH A PERIOD OF**
14 **CONFINEMENT AT AN RRC WILL SERVE THE PURPOSES OF**
15 **SENTENCING BUT NOT BE GREATER THAN NECESSARY.**

16

17 Analysis of factors relevant to the offense and Mr. Medina's personal
18 characteristics, 18 U.S.C. 3553 (a)(1), show that the purposes of sentencing
19 will be well-served by placing Mr. Medina on probation, including confining
20 him in RRC for six-months' time.

21 //

22 //

23 //

24 //

25

26 ¹ See [https://www.themarshallproject.org/2017/10/17/federal-prisons-don't-even-try-to-rehabilitate-the-undocumented](https://www.themarshallproject.org/2017/10/17/federal-prisons-don-t-even-try-to-rehabilitate-the-undocumented) . (Copy and past, but delete
27 the space before ".org" to use the link in browser.)
28

1 **A. Defendant's Characteristics and Circumstances**

2 Mr. Medina, first and foremost, is a man devoted for the care and
 3 subsistence of family. He came to San Jose, where he resides, in 2011, with
 4 his common-law wife Oreyda, and their infant son. Four years later, the
 5 couple had a daughter. The impetus for the move to San Jose was so Mr.
 6 Medina could find a way to support his family.²

7 Mr. Medina worked construction, and specialized in framing work. He
 8 has served as a supervisor of work crews, taking responsibility to assemble
 9 both workers and the needed equipment, and he met his work obligations
 10 successfully. His arrest in this case in 2021 caused him to lose employment,
 11 for his employer had to follow regulations based on their own government-
 12 based contracts, but he found work with a former employer and continued
 13 with determination.³

14 While on supervised release, Pretrial Services was able to confirm Mr.
 15 Medina ceased using drugs after his arrest. His offense conduct occurred
 16 when Mr. Medina sought a way to afford to use drugs; as many others, he
 17 sold to gain some profit which he invested back into his own drug use. The
 18 cycle was broken by his arrest. Mr. Medina has successfully stopped using
 19 drugs and has stayed away from them for over two years. The effect of this
 20 arrest, and the punishment he will have to face, is devastating to his family.
 21 Mr. Medina understands that he must pay his debt to the Court, and society,
 22 for being part of a drug-sale conspiracy that enabled more drugs than just his
 23

24 ² Please see attached Exhibit A, a letter from Ms. Medina, written in
 25 Spanish, and a translation prepared by a certified interpreter.

26 ³ Mr. Medina's employment was verified when the PSR was drafted,
 27 months ago. Attached hereto as Exhibit B are some of Mr. Medina's
 28 additional paycheck stubs, from the intervening weeks. Mr. Medina has
 continued with his employment since it was last verified for the PSR.

1 own personally-used drugs, to endanger the community. Mr. Medina has
2 respected his obligation to the Court, his conditions of supervised release, and
3 his obligations to support his family. By all accounts, he is taking account for
4 his past mistakes, and is demonstrating respect for the seriousness of the
5 law.

6

7 **B. 18 U.S.C. 3553 Factors, Applied**

8 Section 3553 (a)(2) lists the principle purposes of the federal sentencing
9 law. Each are served here. Section (a)(2)(A) says sentencing should “reflect
10 the seriousness of the offense, to promote respect for the law, and to provide
11 just punishment for the offense.” Apart from the one day he was confined
12 after his arrest, Mr. Medina has never been in custody before. Imposition of
13 probation with additional confinement conditions will indeed be taken as a
14 serious restriction by Mr. Medina. He has small children, a 9-year old son
15 and a 5-year old daughter, with whom he spends time with daily. Six months
16 away from a growing young child is a significant loss in his life. He will have
17 time to reflect and truly understand that he can never violate the drug laws
18 again, once he is released. Additionally, commitment at an RRC is partially
19 funded by the inmates. Accordingly, the 25% of his gross income that he will
20 pay for the cost of the RRC is another penalty and punishment that Mr.
21 Medina will experience.⁴

22 Section 3553 (a)(2)(B) provides that sentencing should afford “adequate
23 deterrence to criminal conduct.” Confinement for six-months in an RRC will
24 do just that. It will both provide specific deterrence, by teaching Mr. Medina

25

26

27 ⁴ See https://www.bop.gov/about/facilities/residential_reentry_management_centers.jsp . Please
28 omit the space before “.gov” when entering the address into a web browser.)

1 the seriousness of his own criminal conduct, but it will provide deterrence to
2 people who know Mr. Medina, who will learn his has restrictions and will not
3 be living at home for many months. Specifically, Mr. Medina's children, who
4 will be reminded of this event when they are older even if they do not fully
5 understand why their father is not home for a while, will learn that the kind
6 of mistakes their father made when he was young are mistakes they should
7 avoid, as they grow older.

8 Section 3553 (a)(2)(C) sets forth that sentencing should also "protect
9 the public from further crimes of the defendant." Mr. Medina has shown that
10 he has abandoned his drugs sales and use, responding appropriately to the
11 consequence of his arrest. He has been compliant in all respects with pretrial
12 services. Following his completion of his condition of confinement, Mr.
13 Medina can continue to be supervised, and drug-tested. There is every
14 reason to believe that the combination of confinement and post-release
15 supervision can help extend the protection of the public from the Mr.
16 Medina's drug-related behavior, until a time when the Court is certain he has
17 effectively shown his rehabilitation.

18 Finally, Section 3553 (a)(2)(D) states that punishment also should
19 provide the defendant with needed educational or vocational training,
20 medical care, or other correctional treatment in the most effective manner. A
21 Residential Reentry Center is ideal for dual-purposes of confinement, with
22 effective treatment or education needs Mr. Medina has. Additionally, Mr.
23 Medina's primary need, which is to support his family while he is serving a
24 term of confinement can be addressed. Mr. Medina's income would be
25 reduced, as discussed above, but being able to assure his family had their
26 basic needs met would be the least disruptive to his children, his wife, and
27 provide the most stability possible for his family.

28 The law does not provide for a stern or severe sentence for the crime

Mr. Medina committed. There is room for the Court to take into account the passage of time, Mr. Medina's lack of criminal history, his post-arrest behavior including maintaining stable employment, his commitment to refrain from drug use and the sales of drugs he had been involved with prior to his arrest, and his devotion to raise his family both by financial support and his personal attention to his children. A variance here is appropriate, as the purposes of sentencing will be served without the need for a commitment to a BOP term for the Guideline-determined amount of time.

V. CONCLUSION

Mr. Medina respectfully requests this Court impose a term of probation, and require additional confinement of six-months at an RRC as a condition of probation, followed by a period of supervision.

/s/

CINDY A. DIAMOND, Esq.
Attorney for Defendant
JAIME MEDINA HERNANDEZ

EXHIBIT A

Reciba un cordial y respetuoso saludo, a través de estas líneas deseo hacer de su conocimiento que él sr. Jaime Medina quien ha estado conmigo durante estos 11 años, puedo afirmar que es una excelente persona, solidario, buena pareja, buen hermano y amigo que ha mantenido una conducta de sólida moral, es un excelente padre comprometido con su trabajo para darle siempre lo mejor a su familia.

Ha exhibido buenas costumbres y un trato muy cortes con las personas que interactua. Yo como su pareja puedo darme cuenta del gran esfuerzo que hace todos los días por ser mejor persona y darle buen ejemplo a sus hijos.

Por este motivo le pido que tenga consideración en su sentencia ya que es el pilar de nuestro hogar.

Sin mas nada a qué referirme y esperando que esta carta sea tomada en cuenta dejo mi número de contacto 650 630 20 87

Mi nombre: Oreyda Medina

09/21/2023

I am hereby sending you a cordial and respectful greeting. By means of this letter I want to let you know that Mr. Jaime Medina, with whom I have been together for the past eleven years, is an excellent person: supportive, a good partner, a good brother, a good friend. His behaviour has always been morally solid; he is an excellent father, committed to his job, always seeking to give his family the best he can.

He has demonstrated a good character and a very courteous interaction with other people. As his partner, I am aware of the great efforts he makes every single day to be a better person and to be a good example for his children.

For these reasons, I am asking you to give consideration to these facts as you determine a sentence for him, since he is the pillar that supports our home.

With nothing more to add, I close, hoping that you will take my comments into account, and I leave my contact number (650) 630-2087.

My name is Oreyda Medina

LUPITA ARCE

Translator • Interpreter

English • Spanish

4245 Ponce Drive

Palo Alto, CA 94306

Phone: (650) 856-3112

lupitaarce@yahoo.com

I, Lupita Arce, attest that I am a Spanish/English interpreter/translator. I am certified as a court interpreter by the Administrative Office of the U.S. Courts and by the State of California (ID # 01438082). I am also certified as an English/Spanish translator by the American Translators Association.

On September 23, 2023, I translated from Spanish to English a letter to the judge from Oreyda Medina pertaining to the case of Jaime Medina Hernandez (21-CR-00325-003). I hereby certify that this translation is true and correct and was performed to the best of my knowledge and ability.

Lupita Arce

Lupita Arce

September 23, 2023

Date

EXHIBIT B

WEST COAST FRAMING INC

JAIME J MEDINA HERNANDEZ

					Earnings Statement		
Employee ID	100278	Fed Taxable Income	980.00	Check Date	August 11, 2023		
Location	5403	Fed Filing Status	M-4	Period Beginning	July 31, 2023		
Hourly	\$28.00	State Filing Status	M-4	Period Ending	August 6, 2023		
						Check Number	1035263926
						Net Pay	858.71
						Check Amount	858.71
						Total Hours Worked	35.00
Earnings	Rate	Hours	Amount	YTD	Deductions	Amount	YTD
Regular	28.00	35.00	980.00	20,538.00	No Deductions		
Gross Earnings		35.00	980.00	20,538.00			
Taxes		Amount	YTD	Direct Deposits	Type	Account	Amount
CA		1.04	47.49	No Direct Deposits			
CASDI-E		8.82	184.85				
FITW		36.46	767.28				
MED		14.21	297.80				
SS		60.76	1,273.35				
Taxes		121.29	2,570.77	Time Off	Available	Plan Year	
				CA Sick	to Use	Used	
					24.00	0.00	

JAIME J MEDINA HERNANDEZ

WEST COAST FRAMING INC

Earnings Statement					
Employee ID	100278	Fed Taxable Income	1,120.00	Check Date	September 1, 2023
Location	5403	Fed Filing Status	M-4	Period Beginning	August 21, 2023
Hourly	\$28.00	State Filing Status	M-4	Period Ending	August 27, 2023
				Check Number	1035515002
				Net Pay	968.03
				Check Amount	968.03
				Total Hours Worked	40.00
Earnings	Rate	Hours	Amount	YTD	
Regular	28.00	40.00	1,120.00	23,898.00	
Gross Earnings		40.00	1,120.00	23,898.00	
Taxes		Amount	YTD	Deductions	Amount
CA		4.12	59.85		
CASDI-E		10.08	215.09		
FITW		52.09	923.55		
MED		16.24	346.52		
SS		69.44	1,481.67		
Taxes		151.97	3,026.68	Direct Deposits	Type Account
				No Direct Deposits	
				Available Plan Year	
				Time Off	
				to Use	Used
				CA Sick	24.00 0.00

WEST COAST FRAMING INC

JAIME J MEDINA HERNANDEZ

		Earnings Statement			
Employee ID	100278	Fed Taxable Income	1,036.00	Check Date	September 8, 2023
Location	5403	Fed Filing Status	M-4	Period Beginning	August 28, 2023
Hourly	\$28.00	State Filing Status	M-4	Period Ending	September 3, 2023
				Check Number	1035609674
				Net Pay	903.10
				Check Amount	903.10
				Total Hours Worked	37.00
Earnings	Rate	Hours	Amount	YTD	
Regular	28.00	37.00	1,036.00	24,934.00	
Gross Earnings		37.00	1,036.00	24,934.00	
Taxes		Amount	YTD		
CA		2.27	62.12		
CASDI-E		9.32	224.41		
FITW		42.06	965.61		
MED		15.02	361.54		
SS		64.23	1,545.90		
Taxes		132.90	3,159.58		
		Deductions		Amount	YTD
		No Deductions			
		Direct Deposits		Type Account	Amount
		No Direct Deposits			
		Available Plan Year			
		Time Off	to Use	Used	
		CA Sick	24.00	0.00	